SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 116 Gangtok, Wednesday July 3, 1985.

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK.

Notification No. 10/LD/85 Dated the 29th June, 1985.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 28th day of June, 1985, is hereby published for general information:—

THE SIKKIM (REPEAL AND MISCELLANEOUS PROVISIONS) ACT, 1985.

(ACT NO. 10 OF 1985)

AN

ACT

to repeal the Sikkim Bazar Committees Act, 1969 and the Gangtok Municipal Corporation Act, 1975 and to provide for transfer of duties, functions and powers, and for certain matters incidental thereto;

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Sikkim (Repeal and Miscellaneous Provisions) Act, 1985. *Short title and Commencement.*

(2) It shall come into force at once.

2. In this Act, unless the context otherwise requires,— *Definitions.*

(a) "appointed day" means the date on which this Act comes into force;

(b) "Committee" means the Bazar Committee constituted under section 5 of the Sikkim Bazar Committees Act, 1969;

(c) "Corporation" means the Gangtok Municipal Corporation constituted under section 3 of the Gangtok Municipal Corporation Act, 1975.

(d) "State Government" means the Government of the State of Sikkim or any Department of the Government of Sikkim or any person or persons authorised in this behalf by a notification by the State Government.

(e) "Regular Employee" means an employee whose services have been regularised as per rules in force.

3. On the appointed day, the Sikkim Bazar Committees Act, 1969 and the Gangtok Municipal Corporation Act, 1975 shall stand repealed, and the Committee and the Corporation shall stand dissolved. *Repeal of Act of 1969 and Act IV of 1975 and dissolutions of Committee and the Corporation.*

4. On the dissolution of the Committee and the Corporation - *Consequential provisions.*

(a) functions, powers and duties of the Committee and the Corporation shall stand transferred to and vest in the State Government in the Local Self-Government and Housing Department;

(b) all moneys and other property of whatever kind (including the fund of the Committee and the Corporation) owned by or vested in the Committee and the Corporation, immediately before the appointed day shall, on the appointed day, stand transferred to and vest in the State Government in the Local Self Government and Housing Department;

(c) subject to the provisions of clause (d), any suit, appeal or other proceeding of whatever nature pending immediately before the appointed day before any Court or any other authority or the Tribunal constituted under section 49F of the Gangtok Municipal Corporation Act, 1975 in which the Committee or the Corporation, as the case may be, is a party shall, on the appointed day, continue;

(d) all liabilities and obligations of the Committee or the Corporation, as the case may be, of whatever kind is subsisting immediately before the appointed day, shall, on and from the appointed day, be deemed to be the liabilities or obligations, as the case may be, of the State Government in the Local Self Government and Housing Department and any proceeding or cause of action pending or existing immediately before the appointed day by or against the Committee or the Corporation in relations to such liability or obligation may, as from the appointed day, be continued and enforced by or against the State Government in the Local Self Government and Housing Department.

Provisions relating to the employees of the Corporation.

5. (1) Every regular employee in the Corporation shall become, on and from the appointed day or such later date, as the case may be, an employee of the State Government and shall hold office or service under the State Government with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him and shall continue to do so unless and until his employment under the State Government is duly terminated or until his remuneration and other conditions of service are duly altered by the State Government.

(2) In respect of other catagories of employees the State Government shall have the right to determine the continuance of their service and appoint them on such terms and conditions as may be specified.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of services of any officer or other person employed in the Corporation to the State Government shall not entitle such officer or other employees to any compensation under this Act or under any law for the time being in force and no such claim shall be entertained by any court or other authority.

(4) Where, under the terms of any contract of service or otherwise, any person, whose services become transferred to the State Government by reason of the provisions of this Act, such person shall be entitled to any arrears of salary or wages or any other payment, not being payment by way of gratuity or pension and such payment shall be made from the budget provision of the concerned Department.

(5) Anything or any action, which ought to have been done or taken by the Corporation before the appointed day with respect to the termination of service of its employees or with respect to any matter in relation thereto or arising therefrom, but not so done or taken by the Corporation, may, on and from the appointed day, be done or taken by the State Government.

Reference to Committee or Corporation in other laws.

6. On and from the appointed day, any reference to Committee or Corporation in any law (other than this Act) or in any contract or other instrument shall, except as otherwise provided in any general or special order made by the State Government be deemed to be a reference to the Local Self Government and Housing Department.

Power to impose taxes.

7. The Government may, impose the following rates, taxes and fees or any of them :-

(a) a rate on holdings situated within the limit of the Gangtok town assessed on the annual value including different rates for different grades of valuation;

(b) a conservancy rate on the annual value of holdings;

(c) a water rate as per the consumption;

(d) a tax on trade, profession or calling;

(e) any other tax, rate or fee which the Government may deem necessary.

Explanation - The annual value of holding shall be gross annual rental to which the holding may reasonably be expected to let after deducting, the maintenance not exceeding ten per cent.

8. (1) The State Government may, by notification published in the Official Gazette, make rules. ***Power to make rules.***

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may-

(a) provide for assessment and recovery of any tax, rate and fee;

(b) prescribe for qualifications of and the procedure to be followed by an assessor;

(c) prescribe the procedure to be followed by an assessor;

(d) prescribe the form of notice of demand and for fixing the fees payable in connection with distress;

(e) prescribe for condition and limitation under which, the form in which, a trade licence may be granted, the amount of licence fees, manner of payment thereon and the cancellation, revocation or suspension of trade licence;

(f) provide for the removal of sewerage, rubbish and offensive matters from all public latrines, urinals and drains and making necessary arrangements for their proper cleansing and disinfection;

(g) provide for prohibition of certain offensive and dangerous trades without licence and regulating places used for such trade;

(h) provide for licensing for keeping cattle, horses, ponies and birds;

(i) provide for regulating the granting of licences for holding fairs and melas and fixing the fees in respect thereof;

(j) provide for power to open or maintain markets, stockyards and such stalls, shops, sheds and other buildings or conveniences for the use of persons carrying on trade or business, regulate the use of such places, charge rents, tolls and fees in respect thereof and close such markets, stockyards, stalls, shops, sheds and other buildings;

(k) provide for the prevention of the spread of any dangerous disease by the carrying on of any business, trade or occupation;

(l) provide for the regulation of the trade in second hand clothing, beddings or similar article and the requiring of such clothing, bedding and article to be disinfected before its sale or exposure for sale;

(m) provide for disposal of any refuse, waste matter or other matter or thing which has been contaminating with or exposed to infection ;

(n) provide for the prohibition or regulation of advertisement in market, public street or parks;

(o) provide for the regulation of burial and burning grounds and other places for the disposal of corpses or carcasses;

(p) provide for taking precautionary measures against outbreaks of fire;

(q) provide for construction and maintenance of dharamsalas, sarais or rest houses;

(r) provide for improvement and reclamation of planning, surveying and control of extension of town or bazar;

(s) provide for construction, maentainance, repair, improvement and cleansing and watering of roads, drains, gardens, tanks, wells and channels within a town or bazar area;

(t) provide for construction and maintenance of public libraries, reading rooms, gymnasia or any other institutions for the diffusion of mental or physical culture or technical instruction;

(u) provide for inspection by officer or staff of the Department;

(v) provide for manner and the period in which appeal shall be preferred to the appellate authority to be appointed by the State Government;

(w) provide for in general for securing cleanliness, safety, order and good Government and other works of public utility calculated to promote health, comfort or convenience of the inhabitants.

(3) In making any rule under this section the State Government may provide that a breach of any rule, order or direction issued thereunder shall be punishable with fine which may extend to five thousand rupees.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be, after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive session, and if, before the expiry of the session immediately following the session or the successive session, the House resolve to make any modification in the rules or resolves that such rules shall not have effect, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Cognizance of offences.

9. Notwithstanding anything contained in the law relating to Criminal Procedure for the time being in force, all offences against any rule or order or direction issued thereunder shall be cognizable and bailable.

Magistrates' power to impose enhanced penalties.

10. Notwithstanding anything contained in the law relating to the Criminal Procedure for the time being in force, it shall be lawful for a Magistrate of the First Class to pass any sentence authorised by this Act in excess of his power.

Finality of order.

11. Every order passed or direction issued by the State Government or order passed or notice issued by any officer authorised under this Act shall be final and shall not be questioned in any suit or other legal proceeding.

Continuance of existing rules.

12. The existing rules governing the subjects enumerated in section 8 and other rules dealing with bazars shall continue till they are varied, altered or amended under section 8 of the Act.

B. R. PRADHAN,
Secretary to the Govt. of Sikkim,
Law Department.
F. No. 16 (152) LD/82.

PRINTED AT THE SIKKIM GOVERNMENT PRESS, GANGTOK.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Gangtok, Friday August 14, 1987. No. 97

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

NOTIFICATION

No. 8/LD/1987. Dated the 13th August, 1987.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 13th day of August, 1987, is hereby published for general information:—

THE SIKKIM (REPEAL AND MISCELLANEOUS PROVISIONS) AMENDMENT ACT, 1987.

(ACT NO 6 OF 1987)

AN
ACT

to amend the Sikkim (Repeal and Miscellaneous Provisions) Act, 1985.

Whereas it is necessary in the interest of the State to amend the Sikkim (Repeal and Miscellaneous Provisions) Act, 1985;

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Sikkim (Repeal and Miscellaneous Provisions) Amendment Act, 1987.

(2) It shall be deemed to have come into force on and from the 4th day of July, 1987.

Insertion of new sections.

2. After section 7 of the Sikkim (Repeal and Miscellaneous Provisions) Act, 1985, the following sections shall be inserted, namely:—

"Power to seize.

7A. If any person contravenes—

(a) any of the provisions and conditions of licence issued under the rules; or

(b) any order or direction or notification issued under the Act or rules made thereunder,

the officers of the Local Self Government and Housing Department specially authorised in this behalf by the Secretary of the said Department, without prejudice to any other action that may be taken against him under the Act or rules made thereunder, may—

(i) seize the goods involved and

(ii) by written order restrain or prohibit the said person from carrying on his activity in contravention of the licence issued under the rules or order or direction or notification issued under the Act or rules made thereunder.

Power to forfeit.

7B. The goods so seized under section 7A shall be liable to be sold in public auction and the sale proceeds thereof shall be forfeited:

Provided that no such auction shall be held without affording an opportunity to such person concerned whose goods are to be sold in public auction."

Repeal and Savings.

3. (1) The Sikkim (Repeal and Miscellaneous Provisions) Amendment Ordinance, 1987 (No. 2 of 1987) is hereby repealed. *(2 of 1987)*

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of the powers conferred by or under that Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act was in force on the day on which such thing was done or such action was taken.

By Order of the Governor,

B. R. PRADHAN,
Secretary to the Government of Sikkim,
Law Department.

[F. No. 16 (152)/LD/1985.]

PRINTED AT THE SIKKIM GOVERNMENT PRESS, GANGTOK.

THE SUBSEQUENT AMENDMENTS TO THE SIKKIM (REPEAL AND MISCELLANEOUS PROVISIONS) ACT, 1985 (ACT NO. 10 OF 1985) AMENDED AND UPDATED UPTO AUGUST, 1985